

Subchapter Nine: Criminal History Information Access Security and Employment

1.09.010 Authorization.

The City Council of the Town of Colma is hereby authorized to have access to summary criminal history information for use in fulfilling its employment, certification and licensing duties. Such authority must be exercised in a manner consistent with the provisions of this Subchapter Nine, regulations promulgated pursuant hereto and the laws of the State of California.

[*History:* formerly § 1.901; ORD. 296, 4/11/84; ORD. 638, 12/14/05]

1.09.020 Presumption of Unfitness.

In performing the function of hiring persons to be employed by the Town of Colma, the City Council shall consider various factors to determine whether the candidate is fit for the position for which he or she is being considered. A person may be disqualified from consideration because of a criminal record which indicates that he or she may be unfit for the position. When candidates for the following positions have been convicted of the following specified criminal conduct, it will be presumed that those candidates are not fit for the position applied for:

(a) Position: City Manager and Non-statutory duties of City Clerk.

Criminal Offense: Burglary, criminal fraud, forgery and any other related crimes found in Title 13, Chapter 4 of the California Penal Code; shoplifting, theft, and any other related crimes found in Title 13, Chapter 5 of the California Penal Code; embezzlement and any other related crimes found in Title 13, Chapter 6 of the California Penal Code; and extortion and any other related crimes found in Title 13, Chapter 7 of the California Penal Code.

(b) Position: Assistant to the City Manager or City Clerk.

Criminal Offense: Burglary, criminal fraud, forgery and any other related crimes found in Title 13, Chapter 4 of the California Penal Code; shoplifting, theft, and any other related crimes found in Title 13, Chapter 5 of the California Penal Code; embezzlement and any other related crimes found in Title 13, Chapter 6 of the California Penal Code; and extortion and any other related crimes found in Title 13, Chapter 7 of the California Penal Code.

(c) Position: Non-statutory duties of the City Treasurer.

Criminal Offense: Burglary, criminal fraud, forgery and any other related crimes found in Title 13, Chapter 4 of the California Penal Code; shoplifting, theft, and any other related crimes found in Title 13, Chapter 5 of the California Penal Code; embezzlement and any other related crimes found in Title 13, Chapter 6 of the California Penal Code; and extortion and any other related crimes found in Title 13, Chapter 7 of the California Penal Code.

(d) Position: Public Safety Dispatcher, Police Clerk and Assistant Police Clerk.

Criminal Offense: Any felony, any crime involving moral turpitude, any narcotics or controlled substance offense, man- slaughter, two or more minor offenses within a year, driver's license suspended or on probation, two or more reckless driving convictions within five years immediately preceding application, two or more driving while intoxicated convictions within five years immediately preceding application, and unauthorized disclosure of criminal records.

(e) Position: General Maintenance Person.

Criminal Offense: Burglary, destruction of public property, shoplifting, theft and any other related crimes found in Title 13, Chapter 5 of the California Penal Code, embezzlement and any other related crimes found in Title 13, Chapter 6 of the California Penal Code, robbery, two or more reckless driving convictions within five years immediately preceding application, two or more driving while intoxicated convictions within five years immediately preceding application, driver's license on probation or suspension.

(f) Position: Police Officers.

Criminal Offense: Any felony, any crime involving moral turpitude, any narcotics or controlled substance offense, manslaughter, two or more minor offenses within a year, driver's license suspended or on probation, two or more reckless driving convictions within five years immediately preceding application, two or more driving while intoxicated convictions within five years immediately preceding application, and unauthorized disclosure of criminal records.

[History: formerly § 1.902; ORD. 296, 4/11/84; ORD. 415, 6/13/90; ORD. 638, 12/14/05]

1.09.030 Rebuttal of the Presumption.

If a presumption is established that a candidate is unfit for a position, the presumption may be rebutted in the following manner by any of the following factors or a combination thereof:

(a) *Time elapsed since conviction:* Where, in the judgment of the City Council, the conviction occurred so long ago and was an isolated incident in the remote past, the Council may, in its discretion, determine that the conviction is not grounds for disqualification and deem the presumption to be rebutted.

(b) *Age at time of conviction:* Where, in the judgment of the Council, the conviction came when the applicant was young and appears to be caused by a lapse or absence of mature judgment, the Council may, in its discretion, determine that the conviction is not grounds for disqualification and deem the presumption to be rebutted.

(c) *Rehabilitation:* If, in the judgment of the City Council, there is affirmative evidence that the applicant has been rehabilitated and is no longer likely to exercise similar anti- social behavior, it may, in its discretion, determine that the conviction is not grounds for disqualification and deem the presumption to be rebutted.

[History: formerly § 1.903; ORD. 296, 4/11/84; ORD. 638, 12/14/05]

1.09.040 Regulations Regarding Security of Criminal Offender Record Information.

The City Council shall, by resolution, promulgate regulations regarding security of criminal offender record information.

[*History:* formerly § 1.904; ORD. 296, 4/11/84; ORD. 638, 12/14/05]

1.09.050 Criminal Record Security Officer.

The Chief of Police is hereby designated Criminal Record Security Officer. The Criminal Record Security Officer shall have the authority and responsibility to see that all regulations promulgated pursuant to this ordinance are adhered to.

[*History:* formerly § 1.905; ORD. 296, 4/11/84; ORD. 638, 12/14/05]

